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SHEA REALTY CORPORATION *v.* PAGE & TAYLOR.

Nov. 17, 1910.

[69 S. E. 327.]

1. Brokers (§ 7*)—Employment of Agents—Resolution of Directors.—A resolution of directors of a corporation engaged in buying and selling real estate and owning real estate which it desired to sell, which recites: "It is ordered" that designated real estate brokers "be allowed the exclusive right as real estate agents to put signs on this property offering it for sale"—made a part of the record of the corporation before the commencement of negotiations resulting in the sale of the property, shows the employment of the brokers to sell the property.

[Ed. Note.—For other cases, see Brokers, Cent. Dig. §§ 5-8; Dec. Dig. § 7.* 2 Va.-W. Va. Enc. Dig. 631.]

2. Brokers (§ 53*)—Commissions—When Earned.—A licensed real estate broker employed to sell real estate, and who is the procuring cause of a sale, is entitled to the commission agreed on, or to recover on a quantum meruit for his services.

[Ed. Note.—For other cases, see Brokers, Cent. Dig. § 74; Dec. Dig. § 53.* 2 Va.-W. Va. Enc. Dig. 638.]

3. Brokers (§ 88*)—Commissions—When Earned.—Whether a real estate broker employed to procure a purchaser of real estate was the procuring cause of a sale is for the jury.

[Ed. Note.—For other cases, see Brokers, Cent. Dig. § 128; Dec. Dig. § 98.* 2 Va.-W. Va. Enc. Dig. 638.]

4. Appeal and Error (§ 1005*)—Verdict—Conclusiveness.—A verdict sustained by the testimony and approved by the trial court will not be disturbed on writ of error.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 3948-3954; Dec. Dig. § 1005.* 1 Va.-W. Va. Enc. Dig. 102.]

Error to Law and Chancery Court of City of Norfolk.

Action by Page & Taylor against the Shea Realty Corporation. There was a judgment for plaintiffs, and defendant brings error. Affirmed.

ARMENTROUT *v.* ARMENTROUT'S LEGATEES.

Nov. 17, 1910.

[69 S. E. 333.]

Wills (§ 821*)—Construction—Pecuniary Legacies—Charge on Land.—Testator by the first clause of his will bequeathed \$1,000 to each of certain relatives. By the second clause he gave his wife and

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

his foster daughter all the residue of his estate, share and share alike. His personal property was insufficient to pay the pecuniary legacies. Held, that the will did not indicate an intent to charge the real estate so devised with the payment of such legacies, which were thereupon payable *pro tanto* only out of the personal property.

[Ed. Note.—For other cases, see *Wills*, Cent. Dig. § 2115; Dec. Dig. § 821.* 9 Va.-W. Va. Enc. Dig. 636, et seq.]

Appeal from Circuit Court, Rockingham County.

Archie Armentrout, as executor of the will of W. A. Armentrout, deceased, having filed a bill for the construction of the will, answers were filed on behalf of Frederick Conn Armentrout and others, pecuniary legatees, claiming a right to payment of their pecuniary legacies out of the real as well as the personal property, as against testator's widow, Christina J. Armentrout, and Lucy M. Armentrout, to whom testator bequeathed all the residue of his real and personal estate, share and share alike. From a judgment declaring the pecuniary legacies to be a charge on the real estate, the residuary legatees appeal. Reversed.

KAVANAUGH et al. v. SHACKLETT'S ADM'R et al.

Nov. 17, 1910.

[69 S. E. 335.]

1. Dower (§ 71*)—Recovery—Remedy—Bill in Equity.—Where a husband's will gave his widow "what the law allows her," even if she took her interest in his estate by operation of law and not under the will, she was entitled to file a bill in equity to recover her dower under Code 1904, § 2276, expressly giving that remedy in cases where it was allowable when the section was first adopted in 1849.

[Ed. Note.—For other cases, see *Dower*, Cent. Dig. §§ 247-249; Dec. Dig. § 71.* 4 Va.-W. Va. Enc. Dig. 818.]

2. Dower (§ 74*)—Original Bill—Relief—Jurisdiction.—Where the jurisdiction of a court of equity has attached under a bill for the recovery of dower, it is not affected by the fact that the bill prayed for relief to which the widow was not entitled.

[Ed. Note.—For other cases, see *Dower*, Cent. Dig. §§ 256-259; Dec. Dig. § 74.* 4 Va.-W. Va. Enc. Dig. 818.]

3. Dower (§ 78*)—Cross-Bill for Partition—Propriety.—Though a court of equity cannot sell lands of an infant under a bill in equity by a widow against the devisees of her husband for an award of dower in her husband's lands, yet under Code 1904, § 2566, providing for a sale in partition at the suit of one entitled to compel partition, where partition in kind cannot be conveniently made, a cross-

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